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Committee against Torture
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Summary record of the first part (public)* of the 1315th meeting
Held at the Palais Wilson, Geneva, on Wednesday, 6 May 2015, at 3 p.m.

Chairperson: Ms. Gaer (Vice-Chairperson)

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1315/Add.1.

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In the absence of the Chairperson, Ms. Gaer (Vice-Chairperson) took the Chair.

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Report on follow-up to concluding observations

1. **Mr. Modvig** (Rapporteur on follow-up to concluding observations), summarizing the current follow-up procedure, said that the recommendations that were selected for follow-up had to be achievable in one year, involve serious concerns and be of a protective nature. The Committee had decided that the procedure would focus on four areas, namely access to fundamental legal safeguards, investigations into allegations of torture, the prosecution and punishment of perpetrators of torture and redress for victims, and that the number of recommendations would also be limited to four.

2. A document was available on the Committee website that provided a summary of all the State party reports submitted since the introduction of the follow-up procedure in 2003. Compliance with the procedure had fallen slightly over time and stood between 67 and 75 per cent for concluding observations issued at the fiftieth and fifty-first sessions. When a State party failed to submit a follow-up report, the recommendations were automatically included in the list of issues in relation to the following periodic report. Civil society organizations were also involved in the follow-up procedure.

3. The Committee would decide on how to strengthen the follow-up procedure by the end of the fifty-fifth session. Options under consideration included: inviting States parties to meet with the Committee, introducing a system for grading compliance, making recommendations clearer and more implementable, enhancing the role of civil society in implementation and organizing visits to States parties. The World Organization against Torture (OMCT) had held an expert forum to explore the topic and had prepared a report, which had been distributed informally to the Committee members.

4. **Ms. Pradhan-Malla** asked whether it would be possible to expand the focus areas. For example, State capacity was often a barrier to the implementation of the Convention.

5. **Mr. Bruni**, concurring with Ms. Pradhan-Malla, said that the recommendations for follow-up should be more tailored to individual States parties. The expert forum had been an interesting opportunity to hear States parties on how the Committee's recommendations translated at the national level, and he hoped that there would be other such meetings in future.

6. **The Chairperson** recalled that the four focus areas had been chosen because in the 10 years prior to the introduction of the current follow-up procedure, most of the recommendations identified for follow-up had fallen into those four categories. Moreover, issues that were farther afield often could not be addressed satisfactorily in only one year. She asked whether the follow-up reports submitted by States parties actually covered the selected issues and whether the States parties that fulfilled their reporting obligations also tended to be the ones that submitted follow-up reports.

7. **Ms. Belmir** said that the follow-up reports submitted by States parties usually fell short of the Convention's and the Committee's requirements. They were seen as a formality and generally enumerated vague plans rather than tangible measures. Therefore, the procedure warranted reconsideration. She suggested that the permanent oversight of places of deprivation of liberty might be added to the focus areas.

8. **Mr. Modvig** said that he would be open to expanding the list of focus areas, bearing in mind that the main challenge was to encourage compliance with the follow-up procedure.

Giving civil society organizations the authority to conduct visits to places of deprivation of liberty might be added to the list because it was usually easily achievable and tended not to require any legislative action. He proposed that the number of recommendations for follow-up might be limited even further. In his experience, States parties did not always actually address the recommendations in their follow-up report, which was another argument for reflecting on how to improve the procedure.

9. **Mr. Tugushi** said that the report on the expert forum answered a number of questions he had had on the issue and was a good basis for the Committee's future discussions.

10. **The Chairperson** said that the Association for the Prevention of Torture (APT) and the World Organization against Torture (OMCT) had in the past organized follow-up visits to States parties, in which they had involved non-governmental organizations (NGOs) and other experts but never members of the Committee. It was worth considering what direct contact might be set up between the State party and the Committee before and after the interactive dialogue and concluding observations. She had previously suggested designing a questionnaire for use in assessing follow-up to the Committee's recommendations. In addition, the Committee might consider a voluntary fund to finance activities and visits that would not otherwise be covered under the budget of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

Consideration of communications under article 22 of the Convention (*continued*)

Report on follow-up to communications

11. **Mr. Domah** (Rapporteur for follow-up to decisions on complaints submitted under article 22), presenting his report on information received from States parties and complainants since the previous session, which had been distributed informally, said that, in *Dewage v. Australia* (communication No. 387/2009), the complainant's application for a protection visa had been denied again, hence the recommendation to keep the dialogue open.

12. **Ms. Pavlova** (Secretariat) said that the State party had denied the protection visa, despite its assurances that it would take the Committee's decision into consideration. Moreover, there was no information as to whether or not the complainant had in fact been deported. The Committee might consider other measures, such as a face-to-face meeting with a representative of the State party.

13. **Ms. Belmir**, pointing out that the communication had been before the Committee since 2009, suggested that it was time to be firmer with the State party.

14. **Mr. Gaye** asked whether the Committee had experienced similar problems with the State party regarding other cases. If so, had there been other States parties that repeatedly failed to implement the Committee's decisions? How had the Committee dealt with those situations?

15. **The Chairperson** said that the prevailing view among the members seemed to be how much longer to continue the dialogue with the State party, especially given the fact that the complainant's whereabouts were unknown.

16. **Mr. Domah** pointed out that the Committee was awaiting the complainant's comments on the State party's submission, which had been transmitted to him relatively recently. The obvious course of action was to keep the case open pending the complainant's reply.

17. **The Chairperson** said she took it that the Committee wished to adopt the recommendation to maintain the dialogue.

18. *It was so decided.*

19. **Mr. Domah** said that the complainant in *Abichou v. Germany* (communication No. 430/2010) was dissatisfied with the compensation offered by the State party; therefore, the recommendation was to keep the dialogue open.

20. **The Chairperson** said she took it that the Committee wished to adopt the recommendation.

21. *It was so decided.*

22. **Mr. Domah**, turning to *Gerasimov v. Kazakhstan* (communication No. 433/2010), said that the State party was working on amendments to national legislation to introduce a mechanism for the implementation of compensation. The Committee should convey to the State party that it was unnecessary to wait for the legislation to be in place, partly because the authority of the Convention itself was sufficient and partly because the disbursement of compensation was an administrative issue.

23. **The Chairperson** said it was her understanding that the problem was not that the complainant had not received his compensation but that there had been no investigation. Accordingly, she suggested that the dialogue should remain open and that the Committee should contact the Government to enquire about any plans to conduct an investigation. She took it that the Committee wished to proceed in that manner.

24. *It was so decided.*

25. **Mr. Domah** said that, since the asylum status of the complainant in *Nasirov v. Kazakhstan* (communication No. 475/2011) was unclear, the dialogue should remain open until a satisfactory outcome was reached.

26. **The Chairperson** said she took it that the Committee wished to adopt the recommendation.

27. *It was so decided.*

28. **Mr. Domah** said that the complainants in *X. v. Switzerland*, *Fadel v. Switzerland*, *Azizi v. Switzerland*, *Tahmuresi v. Switzerland* and *Khademi v. Switzerland* (communications Nos. 470/2011, 450/2011, 492/2011, 489/2012 and 473/2011) had all been granted refugee status. Accordingly, the recommendation was to close the dialogue with a note of satisfactory resolution.

29. **The Chairperson** said she took it that the Committee wished to adopt the recommendation in all five communications against Switzerland.

30. *It was so decided.*

31. **Mr. Domah**, referring to *Kirsanov v. the Russian Federation* (communication No. 478/2011), said that the complainant had notified the Committee that his request to the authorities of the State party to implement the Committee's decision regarding redress had been returned to him, asking for a copy of the decision. He recalled that the Committee's practice was to transmit its decisions to both the complainant and the State party.

32. After a discussion in which **the Chairperson**, **Mr. Domah** and **Mr. Bruni** took part, **the Chairperson** said she took it that the Committee wished to keep the dialogue open because the latest steps had been taken quite recently.

33. *It was so decided.*

34. **Mr. Domah**, referring to *Bayramov v. Kazakhstan* (communication No. 497/2012), said that the case should not be closed because the recommendation by the Committee to

conduct a proper, impartial and independent investigation involved complicated bureaucratic measures requiring further time and follow-up.

35. The case of *Keremedchiev v. Bulgaria* (communication No. 257/2004) should be closed after a commendation letter had been sent, as per standard procedure.

36. **Mr. Bruni** said he supported closing the case provided the Committee had received confirmation from the complainant himself that he had obtained fair and adequate compensation from the State party.

37. **Ms. Pavlova** (Secretariat) said that no such confirmation from the complainant had been received. The Government had sent a letter, however, regarding the compensation granted and such measures were normally implemented.

38. Following a discussion in which **Mr. Domah**, **Mr. Bruni** and **the Chairperson** took part, it was agreed that, while the commitment by the State party to administer compensation could be taken on trust, confirmation from the complainant should be requested as a matter of principle. Keeping the case open would not entail further discussion at the following meeting on the report on follow-up to communications, since upon receipt of that notification from the complainant the case would be closed.

39. **Mr. Domah**, turning to the case of *Hammouche v. Algeria* (communication No. 376/2009), said that follow-up dialogue with the State party should be kept open and the State party should be urged to reopen the case and conduct an impartial investigation into the events in question for the purpose of prosecuting those allegedly responsible for the treatment and death in custody of the victim, the son of the complainant.

40. Regarding the case of *Ntikarahera v. Burundi* (communication No. 503/2012), the State party should conduct an impartial investigation into the events in question and provide adequate and fair compensation to the complainant. It should be given a new deadline of three months to provide the Committee with information on the steps taken to implement that decision. The case should therefore remain open for follow-up dialogue.

Report on follow-up to reprisals

41. **Mr. Bruni** (Rapporteur on reprisals under articles 20 and 22) said that two cases would be presented in a closed meeting in due course, the second of which was pending discussion among the Chairperson, the Secretariat and himself.

42. **Mr. Tugushi** (Rapporteur on reprisals under article 19) said that protocols were being developed in order to more effectively and systematically handle any form of reprisal. Since the previous reporting period, he had received notification of reprisals and comments on issues relating to reprisals but, since the link could not be established between article 19 and the victims of the reprisals, the Committee had not taken action in those particular cases. A potential case had recently come to light, however, through an NGO which had reported the detention of a prominent human rights defender in Bahrain.

43. Other United Nations bodies, such as the Human Rights Committee, were increasingly taking the issue of reprisals into account. Furthermore, the Committee's activities in that area were gaining a higher profile among NGOs and civil society organizations. Lastly, the webpage was being improved in order to publicize the Committee's work on reprisals and to facilitate contact with the general public.

44. **Mr. Bruni** added that a document on reprisals had been prepared by himself and Mr. Tugushi based on a decision taken at the retreat on working methods which would be discussed in a closed meeting shortly. In addition, the Chairperson had announced that the issue of reprisals would be the main agenda item at the forthcoming meeting of chairpersons of human rights treaty bodies, with a view to mainstreaming approaches.

45. **The Chairperson** thanked the rapporteurs for the updates on those important developments.

The public part of the meeting rose at 4.20 p.m.